

IN THE UNITED STATE DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

PATRICIA LYNN SCHMALTZ,	)	
	)	
Plaintiff,	)	Cause No. CV 06-75-BLG-RFC
	)	
vs.	)	<b>ORDER ADOPTING FINDINGS</b>
	)	<b>AND RECOMMENDATIONS OF</b>
ROBERT MEACHUM, MD, HOMECOMINGS	)	<b>UNITED STATES MAGISTRATE</b>
FINANCIAL NETWORK, a subsidiary of	)	<b>JUDGE</b>
GMAC-RFC, BRUCE J. PARADIS, PRESIDENT	)	
and CEO GMAC-RFC, JOHN DOES,	)	
	)	
	)	
Defendants.	)	
	)	

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On September 11, 2006, United States Magistrate Judge Richard W. Anderson entered his Findings and Recommendation. Magistrate Judge Anderson recommends Plaintiff's Complaint be dismissed pursuant to L.R. 7.1 for failure to respond to Defendant's motion to dismiss. Judge Anderson further recommends this action be dismissed for insufficiency of process pursuant to Rule 12(b)(4), Fed.R.Civ.P., insufficiency of service of process pursuant to Rule 12(b)(5), Fed.R.Civ.P., and failure to state a claim pursuant to Rule 12(b)(6), Fed.R.Civ.P. Finally, Judge Anderson recommends Plaintiff's notice of default filed on June 22, 2006, be stricken and that the lis pendens recorded against the subject property be released.

Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, Plaintiff filed objections on September 27, 2006. Plaintiff's sole objection is that "an ex parte hearing does not require the

filing of a brief by plaintiff.” *Doc. 11*. Despite Plaintiff’s attempts to label it as such, this is not an *ex parte* proceeding. Accordingly, Plaintiff’s objections are not well taken.

After a de novo review, the Court determines the Findings and Recommendation of Magistrate Judge Anderson are well grounded in law and fact adopts them in their entirety.

**IT IS HEREBY ORDERED** that Defendants’ Motion to Dismiss (*Doc. 8*) is **GRANTED**.

**IT IS FURTHER ORDERED** that Plaintiff’s notice of default filed on June 22, 2006, be stricken and that the lis pendens recorded against the subject property be released.

The Clerk of Court shall notify the parties of the entry of this Order and close this case accordingly.

DATED this 28th day of September, 2006.

\_\_\_\_\_/s/ Richard F. Cebull\_\_\_\_\_  
RICHARD F. CEBULL  
UNITED STATES DISTRICT JUDGE